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Subject: Proposal on Government Regulation of TV Violence

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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December 6, 1995

<rhundt@fcc.gov>

Dear Mr. Hundt:

Everyday in this country, thousands of children are exposed to a very serious threat--the threat of violence. This threat that I'm referring to doesn't come in the form of physical violence, but in a much more subtle way. It comes into their homes in the form of violent television programming, which is having a negative effect on the youth of this nation.

Although some people still debate whether or not watching violent programs causes children to exhibit violent behavior, most scientists who have done research in this area believe there is a link between the two. According to the American Psychological Association, this research has revealed several major effects of TV violence being viewed by children. One of them is that these "children may become less sensitive to the pain of others." Other findings show that they may become "more fearful of the world around them," as well as "more likely to behave in [an] aggressive or harmful [manner] towards others." (The American Psychological Association) Even if there is no actual connection, most parents feel that subject matter of this kind is inappropriate for their children to be watching. For these reasons, the federal government deemed the issue serious enough to merit its attention, and assumed the task of regulating violent television programming.

In 1990, the federal government passed several laws designed to control TV violence. First, Congress passed the Children's Television Act of 1990, which was intended to influence a certain kind of programming directed towards children. It sets limits on advertising in children's programming and requires the Federal Communications Commission to "consider the extent to which a TV licensee has served the educational and informational needs of children" when considering that station's application for renewal of its license. Second, Congress passed the Television Improvement Act of 1990, which granted the television industry a three year exemption from anti-trust laws regarding a collaborative effort among networks to reduce TV violence (Ramey).

Even tougher regulatory legislation was proposed after the enactment of the Television Act of 1990. According to communications lawyer Carl R. Ramey, these proposals included several key measures. One of these measures would make it unlawful to show violent programs during the times when children would most likely be watching TV, while another would require the FCC to rank shows and advertisers according to violence. Additional measures would include requirements for "all programming deemed violent to carry video and audio 'warning labels'" and "all new television sets sold in the United States to be equipped with a...V-chip" that would allow parents to block out violent programs (Ramey). While the television acts of 1990 were aimed only at promoting industry self-regulation, these new proposals are meant to give the government direct control over the television industry in these areas.

Up until recently, what the government had been doing was considered to be borderline-acceptable by most of the parties involved. But with this new tougher legislation in the works, legitimate concerns have been raised over whether or not the government has the power to carry through with its plans. The reason for this outcry arises comes from the possibility that these proposals would be in violation of the Communications Act of 1934 and the First Amendment to the Constitution. The First Amendment states that "Congress shall make no law...abridging the freedom of speech, or of the press." Along a similar line, the Communications Act specifically denies the FCC

the power of censorship over the radio communications or signals transmitted by any radio [or television] station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.
(Ramey)

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Both the television industry and many legal experts agree that by taking on the proposed powers, the government would be in direct violation of both these regulations.

Another problem with government regulation of TV violence, says Ramey, is that no one has yet been able to come up with a concrete definition of what constitutes "unacceptable violence," because neither the "social scientists, the creative community, broadcasters, ...[nor] members of Congress" have ever been able to agree on this subject (Ramey). For lack of any definition at all, lawmakers may end up lumping all acts of violence into one category. According to Jeffrey Cole, head of a UCLA research project on TV violence, this can be a dangerous thing. Says Cole,

If our standard were only to look at all violence as being bad, we would have a problem with 'Schindler's List,' 'The Lion King,' and 'Bambi.' Part of our consideration [must be]: Is it serious or is it nonserious violence? Does it cause harm? Is it punished? How graphic is it? Is the violence a logical extension of the character's development, or does it come out of nowhere? And then there is the degree of violence: Is it a slap or a decapitation? (Grobstein25).

There are just too many questions of these kinds to be answered, and too many different opinions on them for any one definition of what is considered as "unacceptable violence" to be applicable in all situations. Because they would be working in such a gray area, any definition that the lawmakers might arrive at could be considered too harsh by some, while not strict enough by others. Therefore, any approach that the government may take towards regulation of TV violence would be ineffective, as well as futile.

I do not believe that the government should be involved in regulating violence on television for all of these aforementioned reasons. Not only might the government's actions be illegal because they may be in violation of the First Amendment and the Communications Act of 1934, but these actions will never be able to be all things to all people, as well.

Therefore, I feel that the federal government should wash its hands of this issue and leave matters to those who know what's best for the children, namely their parents. There are several reasons as to why I feel that this is the best possible course of action.

My first reason is that parents know what they want for their children better than the federal government does. They already have their own beliefs regarding what "unacceptable violence" is, and can regulate which programs they will allow their children to watch accordingly. The American Psychological Association has set forth a list of guidelines that outline what it feels is the most effective method for accomplishing this. First of all, the APA tells parents to ban their children from watching any programs they deem to be "too offensive. They can also restrict their children's viewing to shows that they feel are more beneficial, such as documentaries, educational shows, and so on." In addition, "Parents can limit the amount of time [their] children spend watching television, and encourage [them] to spend their time on" other activities that they find enjoyable. (APA) And if the parents don't have the time to do these things, there are devices available on the market that will control their children's viewing habits for them. One of them is a cable box that can be programmed to block out the shows that the parent's don't want their children exposed to. Another is a television remote control designed for children that, when programmed, does not allow children access to channels that the parents have deemed to be too offensive or violent. As I mentioned earlier, people have different views on what they find to be "acceptable" and "unacceptable" violence on television, and that any criteria the government might use to define what is "unacceptable" might not be the same criteria that the parents would use. Therefore, the government would end up censoring what is found acceptable by some, and not restricting what others find unacceptable if it were to impose its own criteria on the television industry. If the government were to remove itself from this issue, it would allow parents to impose their own criteria using the APA's guidelines or other alternative methods. This is the ideal situation because then, and only then, would parents be able to rest assured that their children were being exposed to programming that reflected their own values.

Another way that parents can impose their own criteria is by placing pressure on the networks to conform to their ideas of what is acceptable.

Since the television industry is a consumer-oriented market, it would have to listen to the concerns of its audience, or risk losing them. This can be done, and does work. As a result of mounting public pressure, the television industry has already begun to take measures towards self-regulation. Recently, they obtained the services of independent researchers to advise them on the content of their programs. Some networks have also begun airing parental advisories before violent or explicit programming so that parents can be better informed on the content of a show. By letting the industry regulate itself according to public pressure, the public's definition of what is "unacceptable" is imposed, rather than the government's. Yet another reason in favor of industry self-regulation is that the whole question the industry's First Amendment rights being violated is avoided, since the government would have no say in

the matter.

One thing that the federal government can and should do is to continue to provide funding for public television. These stations offer one of the few alternatives in children's programming that is available today, and recent proposed budget cuts may endanger this resource. If these stations were lost because of lack of funding, then critically acclaimed programs such as "Mr. Roger's Neighborhood," "Sesame Street," and other educational shows would be lost along with them. By providing funding to PBS, and the government would be sponsoring an alternative to the children's programming currently offered by the television industry. This is preferable to the government regulating programming or forcing the networks to offer alternatives of their own for two reasons. This is because the government would be able to side-step the censorship issue, while at the same time creating positive results.

I hope that you now understand why I feel that the government should leave the question of "What constitutes unacceptable violence?" to the parents, Mr. Hundt. If it were to do so, both sides would benefit--parents would be able to answer this question as they see fit, and the government would not have to worry about any legal repercussions its actions might bring. As chairman of the FCC, I'm sure that your opinion would factor heavily into any legal action taken and policies made in this area, so I humbly ask you take my views into account when the time comes. Thank you very much for taking the time to listen to what I have had to say, and whatever your decision may be, I hope that it's the right one for all of us.

Sincerely,

Garrett Fabian

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